

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KENNETH W. CLARK, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DOWNEY, Correctional Officer, )  
 LANCASTER COUNTY JAIL, and )  
 RIGGY, Correctional Officer Sgt., )  
 )  
 Defendants. )

4:10CV3042

**MEMORANDUM  
AND ORDER**

This matter is before the court on its own motion. On April 28, 2010, the court conducted an initial review of Plaintiff's Complaint and found that it failed to state a claim upon which relief may be granted. (Filing No. [13](#).) The court gave Plaintiff the opportunity to amend his claims, but warned Plaintiff that if he failed to amend his Complaint by May 28, 2010, his Complaint "will be dismissed without further notice for failure to state a claim upon which relief may be granted." ([Id.](#) at CM/ECF p. 5.) Plaintiff has failed to file an amended complaint.

IT IS THEREFORE ORDERED that:

1. Pursuant to [28 U.S.C. § 1915\(e\)\(2\)\(ii\)](#), Plaintiff's Complaint is dismissed without prejudice because it fails to state a claim upon which relief may be granted.
2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 2<sup>nd</sup> day of July, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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